

BENNETT, BRICKLIN & SALTZBURG LLP

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(717) 299-7254/FAX (717) 299-3160	Recreation Commission

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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

KATHERINE ELIZABETH NEIMER	:	
a minor, by and through JAMES J. NEIMER	:	
and REBECCA NEIMER, her parents and	:	
natural guardians,	:	
Plaintiffs	:	
	:	
v.	:	
	:	CI-02-CV-4034
	:	
CITY OF LANCASTER; LANCASTER	:	JURY TRIAL DEMANDED
RECREATION COMMISSION; and	:	
ISMAEL ALVAREZ,	:	Judge Newcomer
Defendants	:	

**RESPONSE OF THE CITY OF LANCASTER AND  
THE LANCASTER RECREATION COMMISSION TO  
PLAINTIFFS' PROPOSED POINTS FOR CHARGE**

1. Objection. This point is not relevant because it is applicable to a negligence claim, which has already been dismissed by the Court, and not to a civil rights claim.

2. Objection. This is not an accurate statement or an accurate quotation of Section 1983. Defendants' Proposed Point Number 4 is an accurate quotation of Section 1983.

3. Agreed.

4. Agreed.

5. Agreed.

6. Agreed, but to be combined with Defendants' Proposed Point Number 7.

7. Objection. See Defendants' Point Number 7.

8. Agreed.

9. Agreed, but to be combined with Defendants' Number 8.

10. Agreed, but to be combined with Defendants' Number 9.

11. Agreed, but to be combined with Defendants' Number 10.

12. Agreed.

13. Objection. This is not relevant because Defendants are not claiming qualified immunity.

14. Objection. This is repetitious.

15. Objection. This is not relevant and is repetitious.

16. Objection. The quotation is out of context. See Defendants' Number 3.

17. Objection. This is repetitious. See Plaintiffs' Number 5. It is also not relevant because the City of Lancaster and the Lancaster Recreation Commission did not employ Mr. Alvarez.

Respectfully submitted,

Dated: \_\_\_\_\_, 2003

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By: \_\_\_\_\_

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**PROOF OF SERVICE**

I HEREBY CERTIFY that I am this day serving the foregoing Response of the City of Lancaster and the Lancaster Recreation Commission to Plaintiffs' Proposed Points for Charge on the persons and in the manner indicated below.

Service by Facsimile and First Class Mail, addressed as follows:

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Attorneys for Defendant, Ismael Alvarez

Dated: October 24, 2003

BENNETT, BRICKLIN & SALTZBURG LLP

By: \_\_\_\_\_

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and Lancaster Recreation Commission

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